

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Gary M. Cocola Family Trust,)	
Gary M. Cocola, Trustee)	CSR-6209-M
)	
v.)	
)	
Central Valley Cable TV, LLC)	
)	
Request for Mandatory Carriage of)	
Television Station KGMC-TV,)	
Clovis, California)	

MEMORANDUM OPINION AND ORDER

Adopted: December 23, 2003

Released: December 30, 2003

By the Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. The Gary M. Cocola Family Trust, Gary M. Cocola Trustee, licensee of KGMC-TV, Clovis, California ("KGMC" or the "station") filed the above-captioned must carry complaint against Central Valley Cable Television, LLC ("Central Valley"), for failing to carry KGMC on its cable television system serving Coalinga, Huron, Riverdale and surrounding areas in California (the "cable communities"). KGMC filed a supplement to its complaint and Central Valley submitted an opposition to which KGMC replied. For the reasons discussed below, we dismiss KGMC's request for must carry status as moot, and affirm its channel positioning rights.

II. BACKGROUND

2. Pursuant to Section 614 of the Communications Act of 1934 ("Act"), as amended, and implementing rules adopted by the Commission in *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, ("Must Carry Order"),¹ commercial television broadcast stations are entitled to assert mandatory carriage rights, including certain mandatory channel position rights, on cable systems located within the station's market.

¹ 47 U.S.C. §534; 8 FCC Rcd 2965, 2976-2977 (1993).

3. With respect to the cable channel number on which stations asserting must carry rights are to be carried by cable systems, Section 614(b)(6) of the Act and Section 76.57 of the Commission's rules provide commercial television stations with three channel positioning options. The station may elect to be carried by the cable system on: (1) the channel number on which the station is broadcast over-the-air; (2) the channel number on which the station was carried July 19, 1985; or (3) the channel number on which the station was carried January 1, 1992.² The Act and the rules also provide that a broadcast station may be carried on any other cable channel mutually agreed upon by the station and the cable operator.³

III. DISCUSSION

4. In its complaint and supplement to its complaint, KGMC states that it is not being carried by Central Valley's cable system in the cable communities, and that it is entitled to mandatory carriage rights.⁴ KGMC also requests that it be carried on cable channel 43, its over-the-air broadcast channel.⁵ Central Valley filed five motions for an extension of time to submit its opposition because it was attempting to work with KGMC to settle its complaint. Central Valley subsequently submitted its opposition in which Central Valley explains that it is not carrying KGMC because of signal quality problems, but it is committed to work with KGMC to try to resolve these problems.⁶ KGMC in its reply acknowledges that Central Valley had begun to carry the station after Central Valley filed its opposition, but objects that it was being carried on channel 64, and requests carriage on channel 43 or on a mutually agreed upon channel.⁷

5. As discussed above, a station may elect to be carried on a cable system on the channel that corresponds with its over-the-air broadcast channel, the cable channel where it was carried on July 19, 1985; the cable channel where it was carried on January 1, 1992, or any other channel mutually agreed upon by the station and the cable operator. KGMC, therefore, has properly requested that it be carried on channel 43, its over-the-air channel, or another mutually agreed upon channel, and Central Valley has not introduced evidence of an overriding necessity for carriage on another channel.

² 47 U.S.C. §534(b)(6); 47 C.F.R. §76.57(a).

³ 47 U.S.C. §534(b)(6); 47 C.F.R. §76.57(d).

⁴ Complaint at 2-3.

⁵ Complaint at Exhibit 2 (Letter from KGMC to Central Valley).

⁶ Opposition at 2-3.

⁷ Reply at 2.

IV. ORDERING CLAUSES

6. According, **IT IS ORDERED**, pursuant to Section 614 of the Communications Act of 1934, as amended, and Section 76.56 of the Commission's rules,⁸ that the complaint filed by the Gary M. Cocola Family Trust, Gary M. Cocola, Trustee, **IS GRANTED** to the extent indicated herein, and is otherwise **DISMISSED**.

7. **IT IS FURTHER ORDERED**, that Central Valley Cable Television, LLC **SHALL COMMENCE CARRIAGE** of KGMC on channel 43, or a mutually agreed upon channel, on its cable system serving the cable communities within 60 days of the release date of this order.

8. This action is taken under authority delegated by Section 0.283 of the Commission's rules.⁹

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division
Media Bureau

⁸ 47 U.S.C. §534; 47 C.F.R. §76.56.

⁹ 47 C.F.R. §0.283.